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EXAMINER

EHICHOYA, FRED I

ART UNIT

PAPER NUMBER

2162

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/836,952	JAM, MEHRBAN	
	Examiner	Art Unit	
	Fred I. Ehichioya	2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 19 August 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 13 - 19 and 21 - 26 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 13 - 19 and 21 - 26 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

1. This is responsive to telephone communication by Applicant's representative Dan C. Hu (Reg. No. 40,025) on August 19, 2005 that the Office Action dated 8/09/2005 does not address Applicant election **with traverse** on a restriction requirement issued with respect to claims 1 – 38.

2. Examiner respectfully submits that the restriction requirement is proper as indicated by the following reason:

As set forth in MPEP 806.05(c):

In order to establish that combination and subcombination inventions are distinct, two-way distinctness must be demonstrated.

To support a requirement for restriction, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., separate classification, status, or field of search.

The inventions are distinct if it can be shown that a combination as claimed:

- (A) *does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and*
- (B) *the subcombination can be shown to have utility either by itself or in other and different relations.*

When these factors cannot be shown, such inventions are not distinct.

As in the Restriction Requirement mailed on April 25, 2005, under 35 U.S.C. 121:
Inventions are distinct because Group I (directed to assigning information stored on a

computer a plurality of clearance levels classified in class 707, subclass 100) does not required Group II, Group III and Group IV for patentability, Group II (directed to updating the set of visible smart badges and recalculating the lowest clearance level classified in class 715, subclass 511) does not required Group I, Group III and Group IV for patentability, Group III (directed to assigning database information and providing access to that sub-set of the database information having a clearance level no higher than the lowest identified clearance level classified in class 707, subclass 5) does not required Group I, Group II and Group IV for patentability and Group IV (directed storing plural sub-sets of information classified in class 707, subclass 200) does not required for Group I, II and Group III for patentability, therefore, restriction for examination purposes as indicated is proper.

Restriction is still considered proper, since these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, Group III and Group IV, search required for Group II is not required for Group I, Group III and Group IV, search required for Group III is not required for Group I, Group II and Group IV and search required for Group IV is not required for Group I, II and Group III, restriction for examination purposes as indicated is proper.

In response to the Applicant's representative that restriction requirement appears improper because "it is not properly classified", the examiner respectfully submits that claims in group I contain limitations which are not found in Group II, Group III and Group IV, claims in group II contain limitations which are not found in Group I, Group III and Group IV, claims in group III contain limitations which are not found in Group I, Group II

and Group IV and claims in group IV contain limitations which are not found in Group I, Group II and Group III.

In conclusion, the restriction was proper because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

3. Claims 13 – 19 and 21 – 26 are pending in this Office Action.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13 – 19, 21, 22, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,204,663 issued to Philip S. Lee (hereafter "Lee") in view of U.S. Patent 6,057,764 issued to Melvin P. Williams (hereinafter "Williams").

Regarding claim 13, Lee teaches a method for context-aware computer management comprising:

assigning database information a plurality of clearance levels (see column 3, line 42 – column 4, line 3);

assigning each smart badge within a set of smart badges one of the clearance levels (see column 2, lines 3 – 25);

identifying a lowest clearance level assigned to the smart badges within the boundary (see column 5, lines 15 – 18); and

providing access to that sub-set of the database information having a clearance level no higher than the lowest identified clearance level on a computer located within the predefined physical boundary (see column 5, lines 1 – 67).

Lee does not explicitly teach wireless beacon.

Williams teaches using a wireless beacon to detect which smart badges are located within a predefined physical boundary (see column 2, lines 25 – 34; Williams uses “presence detector” as “wireless beacon”).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine teaching of the cited references because Williams’s teaching of “using a wireless beacon to detect which smart badges are located within a predefined physical boundary” would have allowed Lee’s system to provide an improved authorized use of a secure space while an alarm system is on, allowing authorized users to freely move throughout the alarmed space, providing significantly greater security than that which is available today for authorized persons while utilizing secured space with the alarm system on as suggested by Williams (see Summary).

Regarding claim 14, Lee teaches defining those smart badges within the boundary as a set of visible smart badges (see column 2, lines 3 – 10); and updating the set of visible smart badges in response to a change in smart badge visibility status (see column 2, lines 10 – 14).

Regarding claim 15, Lee teaches recalculating the lowest clearance level in response to the change in smart badge visibility status (see column 5, lines 62 – 67).

Regarding claim 16, Williams teaches providing access to the database information to smart badge wearers assigned to the smart badges (see column 6, lines 2 – 9).

Regarding claim 17, Lee teaches preventing access to the database when the smart badge visibility status is set to invisible for a predetermined timeout (see column 11, lines 22 – 43).

Regarding claim 18, Williams teaches defining a badge removal confidence level indicating whether each smart badge has been continuously worn by corresponding assigned smart badge wearers (see column 6, lines 2 – 18).

Regarding claim 19, Lee teaches assigning an expiration period to each of the smart badges (see column 4, lines 4 – 15); and

de-authenticating and erasing all data stored on a smart badge whose expiration period has been exceeded (see column 4, lines 56 – 64).

Regarding claim 21, Lee teaches a system for context-aware computer management comprising:

a database, including information differentiated by a plurality of clearance levels (see column 12, lines 21 – 28);

A system service module, coupled to the beacon, for identifying a lowest clearance level assigned to the smart badges within the boundary (see column 2, lines 15 – 18); and

a software application, coupled to the service module and the database, for providing access to that sub-set of the information within the database having a clearance levels no higher than the lowest identified clearance level on the computer (see column 5, lines 1 – 67).

Lee does not explicitly teach wireless beacon.

Williams teaches a first wireless beacon (see Fig.1 (14) and column 3, lines 3 – 4; Williams uses “motion detector” as “wireless beacon”).

a set of smart badges, detected by the first beacon to be within a predefined boundary, each badge assigned one of the clearance levels (see column 3, lines 6 – 18);

a computer located within the boundary (see column 6, lines 2 – 7).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine teaching of the cited references because Williams's teaching of "using a wireless beacon to detect which smart badges are located within a predefined physical boundary" would have allowed Lee's system to provide an improved authorized use of a secure space while an alarm system is on, allowing authorized users to freely move throughout the alarmed space, providing significantly greater security than that which is available today for authorized persons while utilizing secured space with the alarm system on as suggested by Williams (see Summary).

Regarding claim 22, Williams teaches a wide angle RF beacon (see column 3, lines 43 – 48 and column 6, lines 18 – 22).

Regarding claim 25, Lee teaches defines those smart badges within the boundary as a set of visible smart badges (see column 2, lines 3 – 10), and recalculates the lowest clearance level in response to a change in a visibility status (see column 5, lines 62 – 67).

Regarding claim 26, Lee teaches wherein the application logs smart badge wearers assigned to visible smart badges onto the computer (see column 5, lines 55 – 60).

6. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Williams and further in view of U.S. Patent 6,624,739 issued to Anatoli Stobbe (hereinafter "Stobbe").

Regarding claim 23, Lee or Williams does not explicitly teach a second diffuse IR beacon, coupled to the service module, limited to detecting smart badges within the predefined boundary.

Stobbe teaches a second diffuse IR beacon, coupled to the service module, limited to detecting smart badges within the predefined boundary (see column 4, lines 60 – 67; Stobbe uses "reader 28" as "IR beacon").

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine teaching of the cited references because Stobbe's teaching of "a second diffuse IR beacon, coupled to the service module, limited to detecting smart badges within the predefined boundary" would have allowed Lee and Williams' system to provide an improvement to an access control system to the effect that additional monitoring of people-specific characteristics is enabled while maintaining storage, transmission and evaluation of authorization code assigned to the transponder (smart card) as suggested by Stobbe (see Summary).

Regarding claim 24, Stobbe teaches wherein the smart badges include: biometric sensors for detecting when a smart badge has been removed from an assigned smart badge wearer (see column 5, lines 45 – 65).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred I. Ehichioya whose telephone number is 703-305-8039. The examiner can normally be reached on M - F 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on 703-305-9790. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Fred I. Ehichioya
Examiner
Art Unit 2172
August 23, 2005



SHAHID ALAM
PRIMARY EXAMINER